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THE MINIMUM WAGE HOAX

In July, 1969, AFL-CIO bosses started lobbying in Congress for more changes in the minimum-wage law — to extend coverage to additional categories of workers, and raise the minimum wage to $2.00 an hour.

On July 28, U. S. Representatives Benjamin S. Rosenthal (New York Democrat) and Edward R. Roybal (California Democrat) introduced minimum-wage legislation the union bosses demanded.[1]

But by October, union bosses had raised their sights. At an AFL-CIO convention in Atlantic City on October 5, 1969, I. W. Abel (President of the Steel Workers Union) presented demands that the minimum wage be raised to $2.50 an hour and locked permanently to the cost-of-living index, so that the compulsory minimum would rise automatically as the cost of living rises. Abel also asked that the standard work-week be reduced to 4 days — 32 hours.

AFL-CIO President George Meany and other union bosses agreed with Abel's proposal, but many were concerned about tactics. "We have friends in Congress who just put in the bill for a $2 minimum wage," said one union spokesman, who feared that a new demand for $2.50 just then might embarrass their friends in Congress.[2]

All of this is just a new verse of an old song.

The federal government began regulating wages and working hours in private businesses in 1938, when the Fair Labor Standards Act was passed. The Act, and all subsequent laws built upon it, are unconstitutional because the Constitution grants the federal government no power to engage in such activity.

The Fair Labor Standards Act of 1938 (more often called the federal minimum-wage law, or Wage-Hour Act) made it a federal offense for certain types of businesses to pay employees less than 25 cents an hour (to be raised to 40 cents in 1945), and established 40 hours as the normal work-week for most

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covered workers, requiring employers to pay time-and-a-half wages for overtime.

Most workers were not covered by the 1938 law, because it generally applied only to businesses operating in interstate commerce. This limiting of coverage was necessary, because there was still some public regard for the Constitution; and Congress usually tried to show some color of constitutional authority for the laws it passed.

Proponents of the Wage-Hour Act in 1938 said it was authorized by the Interstate Commerce Clause (Section 8 of Article 1 of the Constitution) which says:

"The Congress shall have power . . . to regulate commerce . . . among the several states."

This clause was intended to keep states from putting up tariff barriers and other obstructions to trade among the states. The people of America would not have accepted the Constitution if they had thought the interstate commerce clause would ever give the federal government pretext to meddle in private business and tell individuals when and where they could work and under what conditions.

Even the most violent stretching of the meaning of the interstate commerce clause could not give the federal government any right to meddle with the affairs of workers and employers whose business operations are within the limits of one state.

Since 1938, however (when Franklin D. Roosevelt finally succeeded in getting a majority of New Dealers on the Supreme Court), the Supreme Court has virtually eliminated all fixed meaning from the Constitution, by "reinterpreting" it to coincide with the sociological and political whims of the justices. The Court's "interpretation" of "interstate commerce" has become broad enough to cover almost everything.

For example, a man who washes windows of an office building is "engaged in interstate commerce," because some of the tenants in the building are firms which do business in several states. The elevator operators and janitors are "engaged in interstate commerce" for the same reason. A farmer who feeds his own wheat to his own chickens is said to be engaged in interstate commerce, because the wheat which he uses on his own place might be in competition with wheat that does move across state lines.

Nonetheless, for almost a quarter of a century after the 1938 Wage-Hour Act was passed, Congress resisted pressures to broaden its coverage. Congress raised the minimum wage to 75 cents in 1949, and to $1.00 in 1955; but the coverage remained limited, essentially, to the types of businesses included in 1938.

After the 1958 congressional elections, the United States, for the first time in history, had a "union Congress": a majority of Senators and Representatives were supported by, and politically indebted to, union bosses. In February, 1959, AFL-CIO union bosses met at a winter resort in Puerto Rico to plan new legislation for "their Congress." Their main proposal was a change in the Wage-Hour Act, extending its coverage to new categories of businesses (to bring in about nine million more workers), and raising the minimum wage to $1.25 an hour.[3]

The day (February 16, 1959) the union bosses made their announcement in Puerto Rico, the new minimum-wage legislation they demanded was introduced in Congress — by James Roosevelt (California Democrat) in the House, and by John F. Kennedy (Massachusetts Democrat) in the Senate.

In the ensuing congressional debates over this 1959 minimum-wage legislation, the Constitution of the United States was not even mentioned. The politicians no longer felt any need to show some color of constitutional authority for their proposals. The fight was entirely political; and it was not between socialists honestly calling themselves what they were, and constitutionalists standing on principles. The struggle was between socialists who called themselves "liberals," and

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socialists who called themselves "moderates" or "modern Republicans."

Indeed, the congressional struggles over all legislation that is dragging us toward a totalitarian socialist state are always between these two types of socialists — "liberals" and "moderates."

And so it was in 1959.

After James Roosevelt and John F. Kennedy introduced the "liberal" minimum-wage legislation that union bosses wanted, the Eisenhower administration countered, as usual, with something equally bad in principle, but less extravagant. Eisenhower proposed extending minimum-wage coverage to 3.2 million new workers (instead of 9 million), and raising the minimum wage to $1.00 or $1.15 an hour (instead of $1.25).

This squabble between "liberals" and "moderates" kept Congress from enacting any wage-hour legislation in 1959 — and set the dispute up as an "issue" in the 1960 political campaign between Richard M. Nixon and John F. Kennedy.

In December, 1960 (one month after election), President-elect Kennedy announced that revision of the federal minimum wage laws (to increase the minimum to $1.25 an hour and extend coverage to about 9 million additional workers) would be one of his five major legislative proposals in 1961.

The wage-hour amendment law which Congress enacted for President Kennedy and the union bosses in 1961 was something of a compromise between the "liberal" and "moderate" proposals of 1959: it raised the minimum wage to $1.25 (but in stages, the final stage to be reached in 1965); and it brought in only 3.6 million additional workers.

Before the Fair Labor Standards Amendments Act of 1961 was fully in effect, President Kennedy (in 1963) and President Johnson (in 1964) asked Congress to extend the coverage. The struggle between "liberals" and "moderates" prevented Congress from responding — until 1966.

In the Fair Labor Standards Amendments Act of 1966, Congress raised the minimum wage from $1.25 to $1.60 an hour, and extended coverage to about 9.1 million workers not previously covered — such as bus drivers, taxi drivers, certain farm laborers, non-professional school employees, and employees in restaurants and retail establishments. The 1966 amendments brought the total number of workers covered under the wage-hour law to 41.4 million.[4]

Now, as mentioned at the outset of this *Report*, the union bosses have started pressuring Congress again to raise the minimum wage and bring in additional workers.

The Nixon administration opposes increase and extension of the Wage-Hour Act, at this time, because of inflation. But the President favors the "purpose" of the Wage-Hour Act. At best, he can be expected to offer only mild opposition, and the union-boss lobby is powerful. Unless people understand this issue, and emphatically register their disapproval, the present Congress is almost certain to enlarge minimum-wage coverage, in the 1970 political year, if not in 1969.

Why, in addition to being unconstitutional, is the minimum-wage law bad?

For one thing, the law hurts the very people it is supposed to help: unskilled laborers making low wages. It throws them out of work, and on relief; and it makes permanent reliefers of thousands of people who never work because they never learned to work. Many small businessmen are already sweeping their own offices, after hours, because they cannot afford to pay janitors the $64 a week presently required by the $1.60-an-hour minimum-wage law. Many more unskilled building-maintenance employees will lose their jobs if the minimum wage is raised to $100 a week ($2.50 an hour).

Many other small businessmen (those just getting started, and those that necessarily work on a very low margin of profit) have been forced

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to close because they could not pay the minimum wage that government dictates.

In short, the federal minimum-wage law has eliminated the jobs of many thousands of unskilled workers.[5] What happens to them? Very few ever move into better jobs with other companies. Some get jobs, paying even lower wages, with businesses not yet covered by the Wage-Hour Act. Many go on relief. And some go into the federal government's make-work, or job-training, programs.

President Nixon says the federal government spends about $3 billion a year on manpower programs, about half of that amount devoted to job training.[6] The training is directed primarily at able-bodied, hard-core unemployed who could find jobs, but who never do and seem to prefer welfare to work. These are the people whose basic job training used to be provided by the kinds of businesses that are forced to close because of minimum-wage laws.

Many able-bodied reliefers are unemployed, not because they lack skill or training in some specialized occupation, but because they have no concept of working at all — do not even understand the rudimentary principle that an employed person must report on the job at a certain time every working day and stay there until quitting time. Training in this basic understanding of what a job means has always been given by private companies that hire people for such jobs as dishwashing, floorsweeping, truck loading, freight handling, ditch digging, and so on. After learning to work at such jobs (which few like to do, but which someone must do), unskilled workers can move on to better employment, if they have ability, energy, and ambition.

Every time Congress raises the minimum wage, it closes small or marginal businesses which had provided jobs and job-training opportunities for unskilled persons. Thus, working taxpayers are converted into wards of the government; and the tax burden on remaining workers is increased.

Instead of passing more minimum-wage laws, Congress should repeal the Fair Labor Standards Act, and should also repeal all federal child-labor laws. Then, able-bodied, unskilled persons (including teenage school-dropouts, who create serious social problems in congested "inner cities" throughout the country) could be gainfully employed in private industry, learning to work and thereby qualifying themselves for more training and better jobs later on.

FOOTNOTES

(1) *Congressional Record*, July 28, 1969, pp. H 6422, E 6328

(2) *Dallas Times Herald*, Oct. 5, 1969, p. A23

(3) Associated Press dispatch from San Juan, Feb. 16, 1959

(4) *1966 Congressional Quarterly Almanac*, pp. 821-830

(5) "Expert's View — Minimum-Wage Law Has Increased Poverty," address by Yale Brozen, professor of economics at University of Chicago, *U.S. News & World Report*, Feb. 5, 1968, p. 72

(6) President's Manpower Message to Congress, Aug. 12, 1969, *Congressional Quarterly Weekly Report*, Aug. 15, 1969, pp. 1523-1524

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